



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
1400 K STREET NW · WASHINGTON, D.C. 20424-0001
(202) 482-6600 FAX: (202) 482-8608

March 5, 2014

OFFICE OF THE GENERAL COUNSEL

Roy P. Lowe
PMB 11923
Pensacola, FL32524

Re: FLRA-2014-000049

Dear Mr. Lowe:

In an appeal this Office received on February 12, 2014, you challenged the FLRA Atlanta Regional Director's decision granting in part and denying in part your request for information under the Freedom of Information Act. Based on a review of the Regional Director's decision, I deny the appeal in part, and grant your appeal, in part. See 5 C.F.R. § 2411.10(a)(2).

You requested a copy of the case file in Case No. AT-CA-13-0353. On appeal you disagree with the Regional Director's reliance on certain FOIA exemptions to withhold certain case file documents. You also base your appeal on the access provisions under the Privacy Act.

I have reviewed the case file and conclude that the Regional Director properly determined to release the documents that he identified in his letter dated January 28, 2014.

The case file also contains a single affidavit along with a cover letter. The affidavit is yours. If you wish to obtain a copy of this affidavit and the cover letter please contact the Regional Director. The case file also contains a copy of a Grievance Record that you filed on December 10, 2012 (5 pages). If you wish to obtain a copy of this evidence please contact the Regional Director. The case file also contains an email chain relating to the Grievance and a chart reflecting a grievance template with

timelines (Article 32 of the Agreement). If you wish to obtain a copy of this evidence please contact the Regional Director.

As for the remaining documents that were withheld, such as the investigating agent's notes to the case file and a Final Investigative Report, which contains notes about the region's deliberations, and email communications between the agent and the Charged Party representative, the Regional Director properly applied the law governing FOIA determinations and therefore did not commit any error. As such, I adopt his findings and legal conclusions.

Again, should you wish to obtain the documents identified above contact the Regional Director who will make them available to you.

I am responsible for these determinations. This is the final agency determination. The provisions for judicial review of final agency determinations under the FOIA are set forth at 5 U.S.C. § 552(a)(4). Alternatively, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
{OGIS} 8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

In addition, I deny your request under the Privacy Act. The Privacy Act of 1974, as amended, 5 U.S.C. § 552a, provides for access to records that are within a "system of records." 5 U.S.C. § 552a(d). A "system of records" is defined under the Privacy Act as "a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual." 5 U.S.C. § 552a(a)(5). Information from the FLRA's files on unfair labor practice complaints is not retrieved by an individual's name or personal identifier and, therefore, is not maintained in a "system of records" subject to the Privacy Act. The provisions for judicial review of final agency determinations under the Privacy Act are set forth at 5 U.S.C. § 552a(g)(1).

Sincerely,



Julia Akins Clark
General Counsel

cc: Regional Director, Denver